

In re of Michio Kubota et al
Application No. 10/550,486
Reply to Office Action of January 28, 2010
Reply dated May 21, 2010

REMARKS

The Official Action mailed January 28, 2010, and the prior art relied upon therein have been carefully reviewed. The claims in the application are now claims 1, 3, 8, 9, 12 and 15, and these claims are believed and respectfully submitted to define patentable subject matter, warranting their allowance. Favorable reconsideration and allowance are respectfully urged by Applicants.

Acknowledgement by the PTO of the receipt of Applicants' papers filed under §119 is noted.

Claims 1 and 10 have been objected to as containing informalities, and appropriate correction has been required.

Claim 10 has been deleted without prejudice, and its subject matter has been incorporated into claim 1 with the misspelling of the word "alcohol" being corrected. The informality noted in claim 1 no longer appears in claim 1.

Accordingly, Applicants believe the issues raised in the claim objections have been resolved. Withdrawal of those objections is respectfully requested.

Concerning the Information Disclosure Statement (IDS) filed December 22, 2009, the Examiner has not considered three documents under the heading "Non-patent Literature Documents", stating that such IDS fails to comply with 37 CFR §1.98(a)(3) because it does not include a concise explanation of relevance. However, these three documents are mentioned in Applicants' specification, and such a disclosure fully meets the

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requirements of Rule 98. In this regard, the Examiner's attention is respectfully invited to the paragraph spanning pages 6 and 7 of Applicants' specification where the relevance of these three documents is set forth. Applicants respectfully attach hereto for the Examiner's convenience a duplicate copy of the form on which such three documents are listed as in the IDS filed December 22, 2009, so that the Examiner can place her initials adjacent the citation listings to indicate that these three documents have been considered at least to the extent described in Applicants' specification.

Amendments have been made in the claims above. Thus, as indicated above, claim 1 has been amended to incorporate the subject matter of the dependent part of claim 10, to in effect rewrite claim 10 in independent form as claim 1, and in particular to specify that the non-saccharide material is "hydrophobic." Original claim 10 being redundant, it has now been deleted. Claim 1 has been further amended to move part of the feature concerning the ingredient added in part (B) to the end of claim 1.

Claims 3 and 8 have been amended to be in conformity with amended claim 1. Reference to "emulsifiers, organic solvents, agrichemical emulsions" has been deleted from claim 3 to avoid any improper coverage because they might not fall within the genus of "hydrophobic non-saccharide" materials.

Claim 15 is presented to replace claim 11, because Applicants believe that claim 15 is in a more acceptable form than claim 11.

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Claims 1, 3 and 8-12 have been rejected under 35 USC §103 as obvious from newly applied Minoru et al JP 09-107911 (Minoru) in view of previously relied upon Maruta. This rejection is respectfully traversed.

The rejection states that Minoru teaches a method of preparing a powder or powdered perfume, wherein the perfume can comprise animal and vegetable fats, citrus oils, plant essential oils, peppermint oils, coffee extract, cocoa extract, a tea extract, a synthetic perfume compound, oil compound perfume constituents, or mixture thereof, all of which are deemed non-saccharide ingredients as well as a processed agricultural product, lipid or flavor. The rejection further states that, while Minoru does not specifically teach the claimed saccharide derivative of α,α -trehalose in an amorphous form, Maruta teaches methods of preparing saccharide derivatives of α,α -trehalose having a trehalose structure as an end unit and a glucose polymerization degree of 3 or higher using a novel enzyme.

Based upon this, the Examiner alleges that it would have been obvious to one of ordinary skill in the art at the time that the invention was made, for the method of powderizing a non-saccharide ingredient of Minoru to have further comprised substituting the trehalose component for the claimed saccharide derivative of Maruta, because Maruta teaches that the claimed saccharide derivative is useful as a stability and flavor agent in foods and beverages, imparting viscosity and as a general quality improver and can be combined with emulsifiers such as dextrin. Applicants respectfully disagree.

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As defined in the claim 1, the claimed method comprises (A) processing the said hydrophobic non-saccharide ingredient(s) into a liquid or paste form by adding alcohol or organic solvent.

Contrary to this, the method disclosed by Minoru is characterized in emulsifying perfume with water and emulsifier. There is nothing in Minoru that discloses or teaches a method for powderizing one or more hydrophobic non-saccharide ingredients through the process of making the one or more hydrophobic non-saccharide ingredients into liquid or paste form by adding alcohol or organic solvent. Further, Minoru never uses saccharide derivatives of α,α -trehalose, i.e. α,α -trehalose is used in the method of Minoru.

With regard to Maruta, it should be also noted that there is nothing in Maruta that teaches a method for powderizing a one or more hydrophobic non-saccharide ingredients through the process of making the one or more hydrophobic non-saccharide ingredients into liquid or paste form by adding alcohol or organic solvent.

In Examples B-6, B-11 and B-12, Maruta discloses some examples of compositions in powder form. However, the composition of Example B-6 is prepared by just mixing saccharide derivatives of α,α -trehalose in powder form and other ingredients also in powder form. The ingredients are already in powder form at the beginning. There is no process of powderizing ingredient(s) in liquid or paste form in Example B-6 of Maruta.

Further, it is not saccharide derivatives of α,α -trehalose but crystalline trehalose used in Examples B-11 and B-12.

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There is nothing in Maruta that teaches or suggests any powderizing method by using saccharide derivatives of α,α -trehalose.

As noted above, both references are deficient with respect to the present invention in the same regard. Therefore, even if *ad arguendo* it were obvious to combine the references as proposed, the resultant reconstructed Minoru (modified by Maruta) would not correspond to the claimed method. Accordingly, the claimed method would not have been obvious to a person of ordinary skill in the art at the time the present invention was made from a consideration together of Minoru and Martua.

In addition, the prior art provides no reasonable expectation of what is achieved according to the present invention.

A powderized composition prepared by the claimed method has a satisfactory moisture-retaining activity but no hygroscopicity (see page 3, lines 17-25 of the specification), and has satisfactory characteristics of suppressing the reducing of their relish, such as their original tissue, form, taste, flavor, color, texture, the deterioration of quality such as inactivation of effective components and loss of nutritional components, and reducing of functions (see page 4, line 26 to page 4, line 2 of the specification). These are remarkable advantageous effects which had not been reasonably expected even for a skilled person at the time the present invention was made.

Withdrawal of the rejection is in order and is respectfully requested.

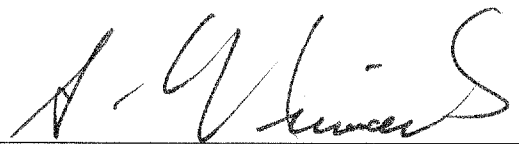
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The prior art documents of record and not relied upon by the PTO have been noted, along with the implication that such documents are deemed by the PTO to be insufficiently material to warrant their application against any of Applicants' claims.

Applicants believe that all issues raised in the Official Action have been addressed above in a manner that should lead to patentability of the present application. Favorable consideration, entry of the amendments above, and early formal allowance are respectfully requested.

If the Examiner has any questions or suggestions, she is respectfully requested to contact the undersigned at (202) 628-5197.

Respectfully submitted,
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